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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/232,258 04/13/99 JONES

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EXAMINER

HM12/0207

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LEVY, N

ART UNIT

PAPER NUMBER

1617

DATE MAILED:

02/07/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09232258

Applicant(s)

JONAS

Examiner

Group Art Unit

167

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—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

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Receipt is acknowledged of (6/4/99) Declaration and Small entity Applicant should obtain the publication 8/30/99).

An examination of this application reveals that applicant is unfamiliar with patent prosecuting procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skillful preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

This application is informal in the arrangement of the specification. The following guidelines illustrate the preferred layout and content for patent applications. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

The following order or arrangement is preferred in framing the specification and, except for the reference to "Microfiche Appendix" and the drawings, each of the lettered items should appear in upper case, without underlining or bold type, as section headings. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) Title of the Invention.
- (b) Cross-References to Related Applications.
- (c) Statement Regarding Federally Sponsored Research or Development.
- (d) Reference to a "Microfiche Appendix" (see 37 CFR 1.96).
- (e) Background of the Invention.
  - 1. Field of the Invention.
  - 2. Description of the Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) Brief Summary of the Invention.
- (g) Brief Description of the Several Views of the Drawing(s).
- (h) Detailed Description of the Invention.
- (i) Claim or Claims (commencing on a separate sheet).
- (j) Abstract of the Disclosure (commencing on a separate sheet).

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- (k) Drawings.
- (l) Sequence Listing (see 37 CFR 1.821-1.825).

CFR: Code of Federal Regulations, Vol.37-see your library

MEP.: Manual of Patent Examining procedures-voluminous! If not in your library, see your friendly Patent Agent or Attorney (Registered with Patent Office).

Applicant is advised on how to arrange the content of the specification.

#### **Content of Specification**

- (a) Title of the Invention: See 37 CFR 1.72(a). The title of the invention should be placed at the top of the first page of the specification. It should be brief but technically accurate and descriptive, preferably from two to seven words.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) Reference to a "Microfiche Appendix": See 37CFR 1.96(c) and MPEP § 608.05. The total number of microfiche and the total number frames should be specified.
- (e) Background of the Invention: The specification should set forth the Background of the Invention in two parts:
  - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
  - (2) Description of the Related Art: A description of the related art known to the applicant and including, if applicable, references to specific related art

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and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."

- (f) Brief Summary of the Invention: A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (g) Brief Description of the Several Views of the Drawing(s): A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (h) Detailed Description of the Invention: A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. This item may also be titled "Best Mode for Carrying Out the Invention." Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.
- (i) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet. (37 CFR 1.52(b)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be

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separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps.

- (j) Abstract of the Disclosure: A brief narrative of the disclosure as a whole in a single paragraph of 250 words or less on a separate sheet following the claims.
- (k) Drawings: See 37 CFR 1.81, 1.83-1.85, and MPEP § 608.02.
- (l) Sequence Listing: See 37 CFR 1.821-1.825.

If applicant continues to prosecute the application, revision of the specification and claims to present the application in proper form is required. While an application can be amended to make it clearly understandable, no subject matter can be added that was not disclosed in the application as originally filed.

Claim 1 is rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

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See attached Patents (5766617) for format and claims. See how claims were generated from the information in the specification. The claims are what provides your desired Patent Protection. Put them on 1 page your response to this (within 3 months) without charge, 6 months maximum with extensions, constitutes an amendment you should not take out or add to the matter on your specification) but you can use everything submitted to add substance to your claim(s). Past claims on a separate page- each claim is one sentence. Add an abstract- explain the drawings. Professional drawing is required if this application is allowed. You will require permission to use photograph. The Drawing to Photo. will be labelled fig.1, Fig.2. The draftsman should be able to assist you with this, when and if necessary. The claim should constitute a method, or a device- ie-

I claim: a method of trapping or claim-a trap for roaches and rodents, comprising a plastic dish,  $2\frac{1}{2} \times 2\frac{3}{8}$  etc,etc,etc. I believe you should submit claims to both the trap + method- As I understand it, the method constitutes a method of trapping roaches or rodents, comprising placing the trap (describe it) be sure to indicate how it is kept  $\frac{1}{4}$  " high, or  $\frac{1}{4}$  " high, and that is sticky) sticky side down, leaving sufficient room for small to medium size roaches when a  $\frac{1}{4}$  " space is provided, and large roaches when  $\frac{1}{2}$  " space is provided, from the floor or a roach inhabited surface, to the edge of the trap, adjusted by means of ???, said trap containing bait for rodents applied to the sticky surface prior to placement, and leaving trap [in the area where

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roaches are found]; or, reversing the trap and placing it where rodents [are found or travel or?] so that rodents attracted to the bait become stuck in the adhesive. Bracketed material is language examiner does not see in applicants writing-so, cannot be used but applicant may be able to provide acceptable description, or, if not, just leave it out. As written your claim does not describe the trap; only that when placed face down it can catch roaches and up, rodents-thus, beyond the scope of the specification, which is limited to the adhesive with bait trapping means.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Staley 3304646.

See the figures Staley shows an enclosed trap, as a cylinder, for insect catching, and extended, or face up, if desired (column 1, lines 45-57). The trap is to catch cockroaches and mice (col 1, lines 7-10). In any position, the trap can catch roaches and/or mice. This does not differ from the instant invention, and is what is instantly claimed. Further, Staley uses plastic for the trap (col 1, lines 59,60) with sticky adhesive to trap the coach/mouse (col 1, lines 61-66) with



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a bait, and the roach gets bait and stuck by (col 1, lines 10-18) crawling under the surface as in the instant disclosure.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Otterson 4244134.

Otterson also recognizes mice and roaches like to hide and provides the instant trap for both (col 5, lines 51- col 6, line 8) with the top surface coated with adhesive (the whole is coated) as a production advantage (col 6, lines 23-29). Bait is any food attractant to the desired pest (lines 47-53) and are aesthetically and environmentally advantageous.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer et al 1545005 in view of Otterson 4244139.

Meyer teaches sticky adhesive to catch mice and insects (col 1) applied to a board or floor (col 2, lines 95-105) with an attractant added (lines 84-88). The trap does not have to be in a different position to catch a mouse as opposed to an insect.

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Otterson teaches glue to catch insects is well known, and also for mice (col 2) lines 49-66); further, it is known to coat top of a trap on the inner surface (col 2, lines 37-45), although rodents were intended target. Otterson then goes on to provide a single trap of roach and mice, with sticky material, coated on all surfaces (col 5, lines 50-line 22, col 6). The advantage of Otterson is aesthetics; this is an improvement over the prior art-Meyer-and would be obvious to a pest exterminator of ordinary skill in the art to provide, given Otterson.

It has not clearly been established by objected showing of unobvious and/or unexpected results, that the administration of the particular form of active, carrier, or the particular form of structure provides any greater level of prior art expectations as claimed. Further, no criticality has been shown by applicant.

The selection of each ingredient and form thereof is a result effective parameter chosen to obtain the desired effects. It would be obvious to vary the nature of each ingredient to optimize the effects desired, and the use ingredients for the functionally for which they are known to be used is not a basis for patentability.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is (703) 308-2412. The examiner can normally be reached on Tuesday through Friday from 7:00AM to 5:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Adams, Ph.D. J.D., can be reached on (703) 308-0570. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3590.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Levy/sg

February 2, 2000

A handwritten signature in black ink, appearing to read "Neil S. Levy". The signature is fluid and cursive, with the first name "Neil" and last name "Levy" clearly distinguishable.

NEIL S. LEVY  
PRIMARY EXAMINER